

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

**IN THE MATTER OF
Richard & Elaine Gross,**
Petitioner-Appellants,

v.

Crawford County Board of Review,
Respondent-Appellee.

ORDER

**Docket No. 09-24-0053
Parcel No. DNDT.13.6414**

On September 29, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Richard and Elaine Gross, requested a telephone hearing and submitted evidence in support of their petition. They are self-represented. The Board of Review designated attorney Derrick R. Franck as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Richard and Elaine Gross, owners of property located at 2735 Fair Lane, Denison, Iowa, appeal from the Crawford County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, brick dwelling having 2186 square feet of above-grade living area, a full basement with 1693 square feet of finished area, an open porch, a deck and concrete patios. The dwelling also has an enclosed breezeway connecting the main structure and a 576 square foot garage. It was built in 1964 and is situated on 0.38 acres.

The improvements have a grade classification of 3-5. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$221,870, representing \$12,380 in land value and \$209,490 in improvement value.

The Grosses protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); and that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). They claimed that \$180,490, allocated 12,380 to land and \$168,110 in the dwelling was the actual value and a fair assessment of the property. The Board of Review granted the protest, in part, and reduced the assessment to \$211,390, allocating \$12,380 to land and \$199,010 to the dwelling.

The Grosses then appealed to this Board. They reasserted the claim of inequity. The Appellants stated that compared to other properties on the same street, their assessment is too high. Mr. Gross testified that he compared his assessment with four sales of similar properties close in age and square footage of dwellings. In his opinion, their steep driveway, detached garage, lack of deck, and lack of walk-out feature should all lower the value of his dwelling. Mr. Gross believes his garage should be considered detached because it is attached to the main structure by an enclosed breezeway and roofing.¹ Unlike the Gross' brick ranch, all of the properties listed for comparison had frame exteriors, except one which was a dissimilar split level design.

Comparable sales provided by the Board of Review ranged from \$96.99 to \$135.60 per square foot. The subject property is assessed at \$96.70 per square foot which is less than the low end of the range. The assessed value per square foot of the subject and sales prices per square foot of the comparables was relatively uniform. Three of the properties were assessed and sold for approximately

¹ Assessors are required to use the guidelines contained in the *Real Property Appraisal Manual* prepared by the Department of Revenue. § 441.21(1)(h). According to the 2008 manual (p.7-39), attached garages must have a minimum of one-third of the common wall adjoining the main body of the house or addition and garages attached only to porches and breezeways should normally be listed as detached, although the manual gives the lister the option to indicate otherwise.

the same per square foot valuation, one was assessed for less than the sale price per square foot and one was assessed for more than the sales price per square foot. The Board of Review also provided a list of five similar properties that sold within eighteen months of the assessment date. Three of the five were assessed slightly higher per square foot than their respective per square foot sale price.

The assessor differentiated some of the comparable properties offered by the Grosses in that, they were in less desirable areas, on busy streets, had design problems, were of inferior quality construction, had leaks/water damage, close proximity to a railroad track, shared gravel driveways, or nearness to a packing plant producing offensive odors. In his opinion, the Gross' house is in a better location, on a cul-de-sac, without the negatives identified in their comparables.

Mr. Gross testified that he had been in many neighboring homes and noted updating and remodeling that he believes makes those properties more valuable than theirs. He contends these differences should lower their assessment. While these omissions suggest the other properties may be under assessed, they do not show that the Appellants' property is inequitably assessed. Reviewing all the evidence, we find that although the Grosses January 1, 2009, assessment is higher than some of the comparable properties, it is reasonable given the dissimilarities of construction type, age, location, and amount of basement finish, and does not suggest it is inequitably assessed.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion the Grosses failed to present persuasive evidence sufficient to support the claim that the assessment was not equitable as compared with assessments of other like property in the taxing district.

We, therefore, affirm the Gross' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$211,390, representing, \$12,380 in land value and \$199,010 in dwelling value is affirmed.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Crawford County Board of Review is affirmed.

Dated this 23 day of OCTOBER 2009.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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| Certificate of Service | |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-23-2009</u> | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX |
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| Signature |  |